

PETER VERNIERO
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FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
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STATE OF NEW JERSEY
STATE BOARD OF PSYCHOLOGICAL
EXAMINERS
DEPARTMENT OF LAW AND PUBLIC SAFETY
DOCKET NO.

IN THE MATTER OF THE
SUSPENSION OR REVOCATION
OF THE LICENSE OF

LESTER H. BARBANELL, Ed.D.
LICENSE NO: 1348

TO PRACTICE PSYCHOLOGY
IN THE STATE OF NEW JERSEY

Civil Action

COMPLAINT

Peter Verniero, Attorney General of New Jersey, by
Marcia A. Membrino, Deputy Attorney General, with offices located
at 124 Halsey Street, Newark, New Jersey, on the basis of
information and belief, by way of complaint says:

GENERAL ALLEGATIONS

1. Complainant, Attorney General of New Jersey, is
charged with enforcing the laws of the State of New Jersey pursuant
to N.J.S.A. 52:17A-4(h), and is empowered to initiate
administrative disciplinary proceedings against persons licensed by
the Board of Psychological Examiners, pursuant to N.J.S.A. 45:1-14
et seq.

2. The New Jersey State Board of Psychological Examiners is charged with the duty and responsibility of regulation of the practice of Psychology in the State of New Jersey, pursuant to N.J.S.A. 45:14B-1 et seq.

3. Respondent, Lester H. Barbanell, Ed.D, is licensed to practice psychology in the State of New Jersey, holding License Number 1348 and has been a licensee at all times pertinent to the complaint.

4. Respondent practiced psychology at 5311 Boulevard East, West New York, New Jersey and at his residence, 1 Horizon Road, Suite 1417 Fort Lee, New Jersey at all times pertinent to this complaint.

5. On July 29, 1996 testifying under oath before a Preliminary Evaluation Committee of the New Jersey State Board of Medical Examiners, respondent admitted to having sexual relations with client M.H. on three occasions before November 15, 1992.

COUNT ONE

1. M.H., a thirty-five year old female, was a client of respondent from approximately December, 1991 through mid-October, 1992. M.H. usually met with respondent for therapy once a week at respondent's West New York office and once a week at the respondent's Fort Lee office residence to address many issues, including a history of depression, attempted suicide and post traumatic stress disorder.

2. During the course of treatment, M.H. established a trusting relationship with respondent and emotionally relied upon

respondent. Through respondent's assistance, M.H. discontinued taking anti-depressant medication. M.H. found respondent to be very supportive of her.

3. In or about August, 1992, M.H. felt as though she were in love with respondent. M.H. did not express these feelings to respondent for several weeks, as she was embarrassed and afraid of rejection. M.H. also did not express these feelings to respondent for several weeks because she felt respondent was the only constant in her life and she did not want to lose this support.

4. Within several weeks, M.H., during a therapy session with respondent, confided in respondent her attraction toward him. After that session, respondent took M.H. out to lunch. At lunch, he complimented M.H., telling her how beautiful she was.

5. During the lunch, M.H. felt uncomfortable speaking to respondent in such a familiar way, as she realized respondent knew so much about her and she knew nothing about him. M.H. also had a difficult time addressing respondent by his first name, after he invited her to do so, because she had always referred to him as "Doctor". Since the uncomfortableness persisted after M.H. left the restaurant, she called respondent to schedule another appointment to discuss it further.

6. Respondent advised M.H. that he could not give her another appointment until the following week. Respondent invited M.H. to his summer house so that they could talk. M.H. accepted the invitation. At respondent's summer house, M.H. talked about

her feelings for respondent and respondent assured M.H. that she did not have to do anything she did not want to. Respondent also told M.H. that he was agreeable to her taking the relationship slowly in order to get to know him. Respondent attempted to kiss M.H., but M.H. would not kiss him.

7. Within a week or two, during a therapy session, M.H. confided in respondent that she believed she had taken all of her feelings of love that she had for an ex-boyfriend and had transferred those feelings to respondent, because respondent was "safe" for her. Respondent then began flirting with M.H. during sessions, telling her how beautiful she was and what a beautiful figure she had.

8. In September, 1992, respondent took M.H. out to dinner. After dinner, respondent invited M.H. to his apartment at One Horizon Road, Fort Lee, which served as his residence, as well as one of his professional offices, where M.H. had weekly therapy session. Respondent and M.H. engaged in sexual intercourse in respondent's bedroom at this residence.

9. At the very next therapy session M.H. had with respondent, respondent handed M.H. some documents indicating that a new law, of which he previously was not aware, had come into existence, prohibiting a therapist from dating a patient. M.H. became afraid and told respondent that she did not want to be his patient anymore; rather, she wanted respondent in her life as her lover. After some discussion, respondent agreed.

10. The affair between M.H. and respondent lasted until approximately the end of October, 1992. M.H. and respondent spent every weekend during the affair at respondent's summer house. They usually saw each other once during the week at his or her apartment. In fact, respondent made M.H. promise not to tell any of her family or friends about their relationship. M.H. convinced respondent to allow her to share the relationship with one friend. In fact, respondent took M.H. and the friend to brunch.

11. During the affair, respondent wanted to introduce M.H. to his sister, but told M.H. they would have to make up a story as to how they met, so that his sister would not know that M.H. had been his client. M.H. attended a Matisse exhibit with respondent and his sister.

12. During the affair respondent told M.H. that he was seeing a therapist and that his therapist saw no problem in M.H. and respondent being together.

13. During the affair, respondent kept telling M.H. how she had all the power, because she could report him and hurt his career.

14. During the affair, M.H. and respondent engaged in sexual intercourse at least eight times.

15. In or about late October or early November, 1992, respondent attempted to convince M.H. to meet with his attorney to sign a document stating that respondent had not, in any way, coerced M.H. into having a relationship with him. M.H. refused and respondent "dumped" her.

16. After "dumping M.H." respondent, from time to time, called on M.H. or left messages on her answering machine. In December of 1994, respondent called M.H. to thank her for remaining silent about their relationship and not jeopardizing his successful career. M.H. advised respondent that she would not speak to him and hung up before respondent could thank her.

17. Respondent's reaction to M.H.'s confiding in him her sexual attraction toward him was grossly unprofessional, and was exploitive of a client who had placed her emotional history, her vulnerability and her trust in his professional care. Respondent's conduct, as set forth above, re-victimized M.H. and reversed any gains M.H. had made in overcoming her severe depression and her concomitant psychological problems.

18. Such conduct by respondent blurred his professional role through boundary violations which caused him to engage in a dual relationship with M.H. Such conduct clearly manifests that respondent failed to ensure professional competence consistent with his professional responsibilities.

19. Such conduct by respondent evidences violation of N.J.A.C. 13:42-4.1(a); 1. xvi(1); xvii(1) and xvii(4) and constitutes professional misconduct and therefore is grounds for revocation or suspension of his license to practice psychology in the State of New Jersey pursuant to N.J.S.A. 45:1-21(e).

20. Such conduct by respondent evidences violations of N.J.A.C. 13:42:4.1(a) xxii(3) and constitutes repeated acts of incompetence and is grounds for revocation or suspension of his

license to practice psychology in the State of New Jersey pursuant to N.J.S.A. 45:1-21(d).

WHEREFORE, Complaint demands judgment against respondent as follows:

1. The suspension or revocation of respondent's license to practice psychology in the State of New Jersey;
2. Imposition of penalties for each separate unlawful act;
3. Restoration to the patient of any monies paid to respondent as fees on account of any unlawful act or practice.
4. Costs, including investigative costs, fees for expert witnesses and costs of trial, including transcripts; and
5. Such other and further relief as the Board shall deem just and appropriate.

PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

By Marcia A. Membrino
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Deputy Attorney General

Dated: May 20 , 1997